

Office Supreme Court

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W. E. STANIS

Clerk

# SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1922.

No. 197.

PRESTONETTES, Inc.,

*Petitioner.*

*against*

FRANCOIS JOSEPH DE SPOTURNO COTY,

*Respondent.*

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## Appendix to Brief for Respondent

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LINDLEY M. GARRISON,

HUGO MOCK,

ASHER BLUM,

*Counsel for Respondent.*

**APPENDIX.****Interlocutory Decree.****UNITED STATES OF AMERICA.**

District of Massachusetts. In the District Court.  
No. 827 In Equity.

ROBERT H. INGERSOLL *et al.*, Complainants,

v.

EDWARD L. DOYLE *et al.*, Defendants.

DODGE, J.

This case came on to be heard upon the bill and supporting affidavits filed October 19, 1917, a stipulation filed October 24, 1917, and agreement filed November 28, 1917, and the complainants' application for a temporary injunction, and was argued by counsel for the respective parties, and thereupon, upon consideration thereof, it is

Ordered, Adjudged and Decreed as follows:

W. Cook and each of them are hereby enjoined until the further order of this Court: from selling or offering for sale, or delivering to others for sale any watch as an Ingersoll watch, which, though originating in the complainants' factory, has been altered or added to so that it no longer is in its entirety the product of Robt. H. Ingersoll & Bro.; from making any use whatsoever of the complainants' registered trade-mark "Ingersoll" in selling or offering for sale or delivering

to others for sale any watch thus altered; from making any use whatsoever of the complainants' trade-mark or trade-names "Ingersoll Midget" and "Radiolite" in connection with such sales; from altering the complainants' watches in any manner and then selling them or delivering them to others for sale as "Ingersoll", "Ingersoll Midget" or "Radiolite" watches; from affixing any words upon any watch thus altered and sold or delivered for sale, or upon the box in which it is sold or is to be sold, which include or in any manner simulate the words "Ingersoll", "Ingersoll Midget" and "Radiolite"; and from soliciting dealers to send watches to the defendants to be altered for sale in any of these various ways.

By the Court,

JOHN E. GILMAN, JR.,  
Deputy Clerk.

Dec. 24, 1917.

F. D.

ENDORSED.

No. 827 Equity.

ROBERT H. INGERSOLL *et al.*,

v.

EDWARD L. DOYLE *et al.*

Interlocutory Decree.

U. S. District Court,

Mass. Dist.

Dec. 24, 1917.

FILED  
in clerk's office.

## DISTRICT COURT OF THE UNITED STATES,

## District of Massachusetts.

I, JAMES S. ALLEN, Clerk of the District Court of the United States for the District of Massachusetts, do hereby certify that the foregoing is a true copy of the Interlocutory Decree, entered on December 24, 1917, in the cause in equity entitled:

No. 827,

ROBERT H. INGERSOLL *et al.*

v.

EDWARD L. DOYLE *et al.*

now pending in said District Court.

IN TESTIMONY WHEREOF, I hereunto set my hand and affix the seal of said (Seal) Court, at Boston, in said District, this twenty-fifth day of August, A. D. 1922.

JAMES S. ALLEN,  
Clerk.

**Writ of Injunction.**

UNITED STATES OF AMERICA

EASTERN DISTRICT OF ARKANSAS

*Western Division.*

**BE IT REMEMBERED,** That at a District Court of the United States of America, in and for the Western Division of the Eastern District of Arkansas, begun and holden on Monday, the eighteenth day of October Anno Domini, One Thousand, Nine Hundred and Fifteen at the United States Court Room, in the City of Little Rock, Arkansas, the Honorable Jacob Trieber, Judge presiding and holding said Court, the following proceedings were had, to-wit: on February 15, 1916, *The Coca-Cola Company* (No. 1857) vs. *J. G. Butler, J. L. Butler and E. C. Butler*, doing business under the firm name of *J. G. Butler and Sons*.

This cause came on to be heard at this term, and was argued by counsel; and thereupon, upon consideration thereof, it was ordered, adjudged and decreed as follows, viz.:

That the defendants *J. G. Butler, J. L. Butler, and E. C. Butler*, doing business under the firm name of *J. G. Butler & Sons*, or doing business under any other firm, corporate or individual name, and each of them, their and each of their servants, agents and employes, successors, assigns and all persons claiming or holding under

or through them, or either of them, be and are, and each of them is hereby perpetually enjoined and restrained from (1) manufacturing advertising, offering for sale or selling, or in any way disposing of beverages in bottles, having or using in connection therewith the crown tops and labels, or either of them, used on the bottles containing "Coca-Cola" as bottled by the plaintiff, The Coca-Cola Company, or its licensees, and furnished by said plaintiff for that purpose to its licensees, or crown tops and labels, or either of them, in imitation or simulation thereof, or (2) manufacturing, advertising, offering for sale or selling, or in any way disposing of beverages in bottles, having stamped, printed or in any way marked thereon, or attached thereto, or used in connection therewith, or on, to or with any case, box, crate, stand or package of any kind in or upon which said bottles or bottled beverages are or may be handled, or any contrivance, artifice or device to advertise that said bottled beverages, *any name, or names, contrivance, artifice or device in imitation or simulation of the trade mark or trade name of "Coca-Cola," or the words "Coca-Cola" or any like word or words, whether alone or in connection with other words or names,* but (3) the said defendants are not enjoined by this decree from selling or offering for sale or disposing of any of the beverage "Coca-Cola" bottled by and acquired as a bottled product from the plaintiff or its licensees.

That the said plaintiff do have of and recover from the defendants, J. G. Butler, J. L. Butler, and E. C. Butler, doing business under the firm

name of J. G. Butler & Sons, the profits, gains and advances which said defendants, or either of them, have received or made, or which have arisen or accrued to them, or either of them, from the infringing by them of the said plaintiff's trade name and trade mark of "Coca-Cola" by the making, manufacturing, advertising, offering for sale or selling of any beverage in bottles, having used in connection therewith the name "Coca-Cola" or any like word or words, whether alone or in connection with other words or names, or any other name contrivance, artifice or device in imitation of said plaintiff's trade name and trade mark of "Coca-Cola", or by the use of the crown tops and labels, or either of them, used on the bottles containing the beverage "Coca-Cola" as bottled by the plaintiff or its licensee, and furnished by the plaintiff for that purpose to its licensees, or any crown tops and labels, or either of them, in imitation of simulation thereof.

That upon motion of said plaintiff at any time during the life of this decree, but not otherwise, there be a reference made to the standing master in Chancery of this court to ascertain and take and state and report to this court on account of the number of bottles of beverage manufactured and sold, or manufactured or sold by the said defendants, or either of them, and also the gains, profits and advantages which the said defendants, or either of them, have received or made, or which have arisen or accrued to them, or either of them, from infringing the rights of the said plaintiff by the manufacturing and selling, or manufacturing or selling of beverages in bottles.

having used in connection therewith the tops or labels as aforesaid, or the words "Coca-Cola" or any like word or words, whether alone or in connection with other words or names, or using any name or names, contrivance, artifice or device in imitation of plaintiffs' trade name and trade mark of "Coca-Cola."

That the said plaintiff on such accounting have the right to cause an examination of the defendants, and each of them, and their and each of their servants, agents and employes, or any other witnesses as may be necessary to take such accounting, and also the production of books, vouchers, and documents of which said defendants and their, and each of their attorneys, servants, agents and employes may be possessed, and cause them to attend for such purposes before the said master from time to time as such master shall direct.

That the said plaintiff do recover of said defendants its costs, charges and disbursements in this writ, to be taxed, and for which costs, charges and disbursements execution may issue.

And thereupon in open court the said defendants, and each of them, by their solicitors, Mehaffy, Reid & Mehaffy, duly waived service upon themselves of the writ of injunction issuing out of this court, directed to themselves, their agents, servants, employees, successors, assigns and all persons claiming or holding under or through them, or either of them, and enjoining them and each of them in manner and forms as in the above and foregoing decree specified, and duly accepted notice of said decree and the terms thereof.

(Signed)

JACOB TRIEBER, *Judge.*

## UNITED STATES OF AMERICA

## EASTERN DISTRICT OF ARKANSAS

*Western Division.*

I, SID B. REDDING, Clerk of the District Court of the United States for the Eastern District of Arkansas, in the Eighth Circuit, hereby certify that the foregoing writing annexed to this certificate is a true, correct and compared copy of the original remaining of record in my office, at Little Rock, Arkansas.

IN WITNESS WHEREOF, I have hereunto set my hand and the seal of said Court, this twenty-fourth day of August, in the year of our Lord, One Thousand Nine Hundred and Twenty-two, and of the Independence of the United States of America, the One Hundred and Forty-seventh.

Attest:

(The Seal of the  
District Court,

SID B. REDDING, Clerk.  
G. A. PERDUE, D. C.

Western Division. U. S. A.

**Final Decree.**

IN THE DISTRICT COURT OF THE  
UNITED STATES,

FOR THE DISTRICT OF KANSAS,  
SECOND DIVISION.

THE COCA-COLA COMPANY,  
Plaintiff,

vs.

CHAS. G. BENNETT and WILLIAM  
R. BENNETT, Co-partners doing  
business under the name of Ben-  
nett Mineral & Distilled Water  
Company,

Defendants.

The mandate of the Circuit Court of Appeals of the Eighth Circuit having been received in the above state case, and after a consideration thereof it is ordered, adjudged and decreed that the defendants, Chas. G. Bennett and William R. Bennett, Co-partners, doing business under the name and style of Bennett Mineral & Distilled Water Company, they and each of them, and all their associates, salesmen, servants, clerks, agents, workmen, employees, and every person claiming or holding under or through the said defendants or in any way connected with their business, are hereby perpetually enjoined and restrained from in any way or manner making or selling their product in such a way as to pass off the same as and for the product of The Coca-Cola Company, *and from using in any form whatsoever the name "Coca-Cola, as applied to any drink, or from*

using any name sufficiently similar to the name "Coca-Cola" as applied to any drink so as to cause deceit, and from doing any acts in any manner or form in the premises as is calculated to deceive.

It is further decreed and adjudged that The Coca-Cola Company has the sole and exclusive right to the use of the mark or name "Coca-Cola" in connection with a drink or beverage, and further, that The Coca-Cola Company has the sole and exclusive right or form of writing the name "Coca-Cola" as described and set out in the petition in the above stated case.

It is further ordered, adjudged and decreed that the said Chas. G. Bennett and Wm. R. Bennett, deliver up to The Coca-Cola Company all labels, boxes, advertising matter, stoppers and crowns in their possession, which bear the name "Coca-Cola" alone, or in association with any other words, and also all of its product in any form sufficiently similar to the product of The Coca-Cola Company to cause deception.

It is further ordered, adjudged and decreed that the plaintiff have judgment against the defendants in the sum of One Hundred (\$100.00) Dollars for damages caused by the acts of defendants complained of in the petition, for which amounts execution may issue.

It is further ordered that the defendants, Chas. G. Bennett and William R. Bennett pay the costs accrued in this case, and that the plaintiff recover of and from said Bennett the cost of this suit to be taxed and have execution therefor.

This 16 day of March, 1917.

JOHN C. POLLOCK,  
*U. S. District Judge.*

Approved:

HOLMES, YANKEY & HOLMES.

## ENDORSED:

Eq. No. 12-N. IN THE DISTRICT COURT OF THE U. S. DISTRICT OF KANSAS. SECOND DIVISION. The Coca-Cola Company, Plaintiff, vs. Charles G. Bennett, *et al.* Defendants. DECREE. Filed Mch. 16th, 1917. Morton Albaugh, Clerk. By Clara Lorang, D. C.

UNITED STATES OF AMERICA, }  
DISTRICT OF KANSAS, } SS.:

I, F. L. CAMPBELL, Clerk of the District Court of the United States of America for the District of Kansas, do hereby certify the within and foregoing to be a true, full, and correct copy of Final Decree, filed March 16th, 1917, in the case of The Coca-Cola Company, Plaintiff, vs. Chas. G. Bennett and William R. Bennett, Co-partners doing business under the name of Bennett Mineral & Distilled Water Company, Defendants. In Equity, No. 12-N, as fully as the same appears of record and on file in this office.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the seal of said Court, at my office in Wichita in said District of Kansas, this 14th day of August, 1922.

(Seal)

F. L. CAMPBELL,  
Clerk.

E. LINTON,  
Deputy Clerk.